

ERIE COUNTY LEGISLATURE
MEETING NO. 8
APRIL 27, 2017

The Legislature was called to order by Chair Mills.

All members present, except Legislator Grant.

An Invocation was held, led by Mr. Burke, who requested a moment of silence.

The Pledge of Allegiance was led by Mr. Rath.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MR. LORIGO moved for the approval of the minutes for Meeting Number 7 from 2017. MR. RATH seconded.

CARRIED UNANIMOUSLY.

Item 4 – No public hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – MR. HARDWICK presented a resolution Honoring Brian Joseph Fose as the Erie County Legislature's Citizen of the Month for April 2017 for his Dedication and Service to the City of Tonawanda and Erie County.

Item 6 – MR. HARDWICK presented a resolution Congratulating James Newton Upon his Retirement as Superintendent of the City of Tonawanda School District and his Devotion to the Community.

Item 7 – MR. LOUGHRAN & MR. RATH presented a resolution Honoring Joan Weichmann for a Lifetime of Community Service.

Item 8 – MR. LOUGHRAN & MR. RATH presented a resolution Honoring the Getzville Ladies Auxiliary on the Occasion of their 95th Anniversary.

Item 9 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Agnes Bain at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 10 – MS. MILLER-WILLIAMS presented a resolution Honoring the Accomplishments of Cosmetologist Merline Bell and her 56 Years of Operating Promises Beauty Salon.

Item 11 – MS. MILLER-WILLIAMS presented a resolution Honoring Cindy D. Clarke for her 40 Years of Service in the Buffalo Public Schools.

Item 12 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Mary Craig at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 13 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Sandra Gilliam at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 14 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Anisha Hassan at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 15 – MS. MILLER-WILLIAMS presented a resolution Memorial Resolution In Remembrance of Mary Lois Johnson-Stokes.

Item 16 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Mr. Mitchell McLeod at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 17 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Bessie Patterson at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 18 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Ms. Ella Robinson at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 19 – MS. MILLER-WILLIAMS presented a resolution Honoring and Awarding Mr. George Scott at the Mary B. Talbert Civic & Cultural Club's Awards Banquet for 2017.

Item 20 – MS. MILLER-WILLIAMS presented a resolution Celebrating the 100th Anniversary of the Colored Musicians Club of Buffalo NY.

Item 21 – MS. MILLER-WILLIAMS presented a resolution Honoring Young Audiences of Western New York for Supporting the People, Programs and Policies that are Committed to Higher Standards of Learning as the Right Choice for children, and Proclaiming April 16-22, 2017 as the "Week for Young Audiences in Erie County".

Item 22 – MR. MILLS, MR. LORIGO, MR. LOUGHRAN, MS. DIXON, MR. HARDWICK, MR. MORTON, MR. RATH, MR. BURKE, MS. GRANT, MS. MILLER-WILLIAMS & MR. SAVAGE presented a resolution Memorial Resolution in Remembrance of the Honorable John T. Curtin.

Item 23 – MR. MILLS, MR. LORIGO, MR. LOUGHRAN, MS. DIXON, MR. HARDWICK, MR. MORTON, MR. RATH, MR. BURKE, MS. GRANT, MS. MILLER-WILLIAMS & MR. SAVAGE presented a resolution Honoring American Bikers Aimed Toward Education (ABATE) and Celebrating the 27th Annual ABATE of Buffalo Erie Awareness Run, and Encourage Drivers to be Observant for Motorcyclists and Fellow Drivers.

Item 24 – MR. MILLS, MR. LORIGO, MR. LOUGHRAN, MS. DIXON, MR. HARDWICK, MR. MORTON, MR. RATH, MR. BURKE, MS. GRANT, MS. MILLER-WILLIAMS & MR. SAVAGE presented a resolution Honoring RecruitNY and Thanking Volunteer

Firefighters and First Responders in Erie County, and Encourage Residents to Visit Their Local Fire Company During Open Houses Being Held April 29-30, 2017.

Item 25 – MR. MILLS presented a resolution Honoring Ann Martindale as Recipient of the Gowanda Area Chamber of Commerce 2017 Spirit of Gowanda Service Award.

Item 26 – MR. MILLS presented a resolution Honoring Jack VanWey as the Recipient of the 2017 Spirit of Gowanda's Excellence in Youth Award.

Item 27 – MR. MILLS presented a resolution Honoring Zachary John Wilson on Attaining the Rank of Eagle Scout.

Item 28 – MR. MILLS presented a resolution Honoring the Lawtons Progressors 4-H Club on its 75th Anniversary.

Item 29 – MR. MILLS presented a resolution Honoring Valley Pharmacy & Medical Supplies as the Recipient of the 2017 Spirit of Gowanda Award.

Item 30 – MR. MORTON presented a resolution Proclaiming the Month of April 2017 as "Donate Life Month" in Erie County.

MR. LORIGO moved for consideration of the above twenty-six items. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

MR. LORIGO moved to amend the above twenty-six items to include one miscellaneous resolution from MR. BURKE, and to include Et Al sponsorship. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

MR. LORIGO moved for approval of the above twenty-seven items as amended. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 31 – CHAIR MILLS directed that Local Law No. 10 (Print #1) 2016 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 32 – CHAIR MILLS directed that Local Law No. 14 (Print #1) 2016 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 33 – CHAIR MILLS directed that Local Law No. 17 (Print #1) 2016 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 34 – CHAIR MILLS directed that Local Law No. 18 (Print #1) 2016 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

Item 35 – CHAIR MILLS directed that Local Law No. 19 (Print #1) 2016 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 36 – CHAIR MILLS directed that Local Law No. 1 (Print #1) 2017 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 37 – CHAIR MILLS directed that Local Law No. 3 (Print #2) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 38 – CHAIR MILLS directed that Local Law No. 4 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 39 – CHAIR MILLS directed that Local Law No. 5 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 40 – CHAIR MILLS directed that Local Law No. 6 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 41 – CHAIR MILLS directed that Local Law No. 7 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 42 – CHAIR MILLS directed that Local Law No. 8 (Print #1) 2017 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 43 – CHAIR MILLS directed that Local Law No. 9 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 44 – CHAIR MILLS directed that Local Law No. 10 (Print #1) 2017 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

COMMITTEE REPORTS

Item 45 – MS. DIXON presented the following report and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 78

April 20, 2017	HEALTH & HUMAN SERVICES COMMITTEE REPORT NO. 7
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ALL MEMBERS PRESENT.

1. COMM. 7E-13 (2017)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Mental Health (ECDMH) is responsible for the delivery of a comprehensive range of mental and behavioral health services for the residents of Erie County; and

WHEREAS, the ECDMH has been awarded \$50,000 in additional funding by the New York State Office of Mental Health (NYSOMH) as part of an on-going initiative to support the development/enhancement of evidence-based systems of care for individuals with mental illness involved in the local corrections system; and

WHEREAS, the ECDMH has identified both its internal Forensic Clinics division and The Research Foundation for SUNY as the recipients of additional funding to support efforts to coordinate and strengthen the response to individuals with mental illness involved in the local corrections system; and

WHEREAS, the ECDMH requires legislative approval to accept the NYSOMH funds and to both increase the Forensic Clinics division budget and maintain the contract with The Research Foundation for SUNY; and

WHEREAS, no County funds will be necessary for Erie County to accept this state aid to serve members of this critical population residing in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to accept New York State funds for the development/enhancement of evidence-based systems of care by maintaining the agency contract of The Research Foundation for SUNY, and by authorizing the Division of Budget and Management to process budgetary adjustments for the Mental Health Forensic Clinics division as follows:

2017 BUDGET – Forensic Mental Health, Business Area 124
Cost Center 12420, Fund 110

Revenue	Increase
Account 406810 – Forensic State Aid	\$14,590
Appropriation	Increase
Account 510200 – Training and Education	\$2,000
Account 561410 – Lab & Tech Equipment	6,590
Account 561420 – Office Eqpt, Furn & Fixtures	<u>6,000</u>
Total Appropriation	\$14,590

and be it further

RESOLVED that to the extent this subcontract may constitute a professional, technical or other consultant service, the County Administrative Code requirement in Section 19.08 for a Request for Proposal (RFP) is hereby waived, as this Honorable Body has previously approved of the County's entering into contract with The Research Foundation for SUNY for this program on December 6, 2016; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to adjust items of appropriations and revenues which may be impacted by changes to the grantor award, provided there are no changes to county share amounts; and be it further

RESOLVED, that certified copies of this resolution be furnished to the Office of the County Executive, the Department of Mental Health, the Office of the Comptroller, and the Division of Budget and Management.

(5-0)

2. COMM. 7E-14 (2017)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Mental Health (ECMDH) is responsible for the delivery of a comprehensive range of mental and behavioral health services for the residents of Erie County; and

WHEREAS, the ECMDH has been awarded an additional \$500,000 annually for four years beginning 10/1/16 with SAMHSA (Substance Abuse and Mental Health Services Administration)

funding as part of a grant to help implement the NYS Youth and Families ACHIEVE (Advancing Care through Health Integration and Evidence-based Effort) project; and

WHEREAS, Research Foundation for Mental Hygiene, Inc. has selected the ECDMH to oversee the provision of the related services; and

WHEREAS, the ECDMH thus requires legislative approval to accept the Federal funds and to establish a grant budget in Fund 281; and

WHEREAS, no County funds will be necessary for Erie County to accept this federal aid to serve high-risk individuals and their families residing in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to accept SAMHSA grant funds and to have the ECDMH oversee the provision of related services by amending its contracts with New Directions Youth and Family Services and Community Connections of NY, and thus authorizes the Division of Budget and Management to establish a grant as follows:

Erie County Department of Mental Health
Grant Fund 281, Fund Center 12410
October 1, 2016 - September 30, 2020
124ACHIEVESAMHSA1620

Revenue	Increase
Account 414000 - Federal Revenue	\$2,000,000
Appropriation	Increase
Account 517560 – Comm Connections OMH	\$1,165,000
Account 517730 – New Directions OMH	<u>835,000</u>
Total Appropriation	\$2,000,000

and be it further

RESOLVED, that to the extent this subcontract may constitute a professional, technical or other consultant service, the County Administrative Code requirement in Section 19.08 for a Request for Proposal (RFP) is hereby waived, as this Honorable Body has previously approved of the County's entering into contract with both New Directions Youth and Family Services and Community Connections of NY on December 6, 2016; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to establish and adjust budgets as required to comply with State and Federal approved funding levels and adjust items of appropriations and revenues which may be impacted by changes to the grantor award, provided there are no changes to county share amounts; and be it further

RESOLVED, that certified copies of this resolution be furnished to the Office of the County Executive, the Department of Mental Health, the Office of the Comptroller, and the Division of Budget and Management.
(5-0)

LYNNE M. DIXON
CHAIR

Item 46 – MR. HARDWICK presented the following report and moved for immediate consideration and approval. MR. MORTON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 79

April 20, 2017	GOVERNMENT AFFAIRS COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 6E-20 (2017)
BURKE: “Letter to Chair Mills Regarding Request for Public Hearing Concerning LL Intro. 5-1 (2017)”
(5-0)
 - b. COMM. 6E-21 (2017)
BURKE: “Letter to Government Affairs Committee Chair Regarding Speakers at Committee Meeting”
(5-0)
 - c. INTRO. 7-6 (2017)
MILLER-WILLIAMS: “In Support of Raise the Age Legislation in the New York Legislature”
(5-0)
 - d. COMM. 7M-6 (2017)
BUFFALO NIAGARA COALITION FOR OPEN GOVERNMENT: “Local Government Website Report Card”
(5-0)

KEVIN R. HARDWICK
CHAIR

Item 47 – MR. LORIGO presented the following report and moved for immediate consideration and approval. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 80

April 20, 2017	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 6
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ALL MEMBERS PRESENT.

1. COMM. 7E-7 (2017)
COUNTY EXECUTIVE

WHEREAS, the Buffalo and Erie County Central Library auditorium is original to the 60 year old building, and upgrades or replacement to the seating, carpeting, lighting, plumbing, ADA and technology are required; and

WHEREAS, LaBella Associates, D.P.C. has the necessary expertise and manpower to provide professional design and construction services for the Buffalo and Erie County Public Library – 2017 Auditorium Renovations Phase 2 project; and

WHEREAS, the County Executive requests authorization to enter into a First Amendment with the firm of LaBella Associates, D.P.C. for providing Professional Architectural/Engineering Services for the Buffalo and Erie County Public Library – 2017 Auditorium Renovations Phase 2 project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to execute a First Amendment with the firm of LaBella Associates, D.P.C. for providing Professional Architectural/Engineering Services for the Buffalo and Erie County Public Library – 2017 Auditorium Renovations Phase 2 project for an amount not to exceed \$60,000.00, including reimbursables and a design contingency; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from BA 122, Fund 490, SAP Project F.16001 – 2016 Buffalo and Erie County Public Library – Mechanical Electrical and Plumbing, for an amount not to exceed \$60,000; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner's Office and one copy each to Buffalo and Erie County Public Library, office of Ken Stone, the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.

(5-0)

2. COMM. 7E-8 (2017)
COUNTY EXECUTIVE

WHEREAS, The Town of Newstead ("Town") intends to design and maintain on a County owned roadway, a recreational pathway crossing on Cummings Road (CR 263);

WHEREAS, said crossing shall be designed, constructed and maintained by the Town of Newstead; and

WHEREAS, the Town shall be responsible for any and all maintenance aspects related to the crossing; and

WHEREAS, an agreement between the Town and the County will be necessary to allow the Town to proceed with the design, construction, and maintenance of the crossing.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to execute an agreement between the County of Erie and the Town of Newstead, allowing the Town to design, construct, and maintain the crossing located on Cummings Road (CR 263); and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of the resolution to the County Executive, the County Attorney, the Department of Public Works.
(5-0)

3. COMM. 7E-16 (2017)

COUNTY EXECUTIVE

WHEREAS, the project site located at 903 Ellicott Street in the City of Buffalo – Condominium Unit A, contains 92 affordable apartments; and

WHEREAS, Pilgrim Village Associates III, L.P., a New York limited partnership with offices at 91 Nora Lane, Buffalo, New York 14202 (the “Company”) and Campus Square Housing Development Fund Company, Inc., a New York not-for-profit corporation organized pursuant to Article XI of the New York State Private Housing Finance Law (the “PHFL”) with offices at 91 Nora Lane, Buffalo, New York 14202 (the “Taxpayer”) want to redevelop said site; and

WHEREAS, Pilgrim Village Associates III, L.P. is developing 92 affordable apartments and 50% of the parking will be owned by Campus Square Housing Development Fund Company, Inc., whose beneficial owner will be Pilgrim Village Associates III, L.P. (“Condominium Unit A”). The tenants in this building will qualify as low income in which 60% of the units are affordable to persons earning no greater than 60% of the area medium income adjusted for family size; and

WHEREAS, the Erie County Legislature adopted a policy on Payment in Lieu of Taxes (PILOT) on December 16, 1999, and the PILOT is consistent with said policy; and

WHEREAS, in order to make the Project economically feasible for Pilgrim Village Associates III, L.P. to operate the housing project it is necessary to obtain tax relief from the County of Erie and the City of Buffalo.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a Payment in Lieu of Taxes (PILOT) Agreement with Pilgrim Village Associates III, L.P., the City of Buffalo, and any other organizations necessary to conclude this PILOT Agreement; and be it further

RESOLVED, that said Agreement shall include an annual PILOT in the amount of taxes due as set forth on Schedule A attached hereto; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the Director of Real Property Tax Services; the County Comptroller; the County Attorney; the Commissioner of the Department of Environment and Planning; and Paul D’Orlando, Department of Environment and Planning.

SCHEDULE A

Condominium Unit A – 903 Ellicott Street

Year	Total	City	County
1	39,132.00	29,349.00	9,783.00
2	40,305.96	30,229.47	10,076.49
3	41,515.14	31,136.35	10,378.78
4	42,760.59	32,070.44	10,690.15
5	44,043.41	33,032.56	11,010.85
6	45,364.71	34,023.53	11,341.18
7	46,725.65	35,044.24	11,681.41
8	48,127.42	36,095.57	12,031.86
9	49,571.25	37,178.44	12,392.81
10	51,058.38	38,293.79	12,764.60
11	52,590.14	39,442.60	13,147.53
12	54,167.84	40,625.88	13,541.96
13	55,792.88	41,844.66	13,948.22
14	57,466.66	43,100.00	14,366.67
15	59,190.66	44,393.00	14,797.67

(5-0)

4. **COMM. 7E-17 (2017)**
COUNTY EXECUTIVE

WHEREAS, the Pilgrim Village Development/Campus Square – Rehabilitation Parcel – 1100 Michigan Avenue project site is currently in a 12-acre development built in 1980, comprised of 90 townhomes within 18 buildings; and

WHEREAS, the project will be redeveloped by Pilgrim Village Associates IV, L.P., a New York limited partnership with offices at 91 Nora Lane, Buffalo, New York 14202 (the “Company”); and Campus Square Housing Development Fund Company, Inc., a New York not-for-profit corporation organized pursuant to Article XI of the New York State Private Housing Finance Law (the “PHFL”) with offices at 91 Nora Lane, Buffalo, New York 14202 (the “Taxpayer”); and

WHEREAS, Pilgrim Village Associates IV, L.P. is developing approximately 7 acres of real estate at this site, containing 57 affordable townhouses which will all be rehabilitated on the balance of the parcel at 1100 Michigan Avenue, surrounded by Best and Michigan and Ellicott Streets. These units will qualify as very low income households in that 60% units are affordable to persons earning no greater than 50% of the area medium income adjusted for family size; and

WHEREAS, the Erie County Legislature adopted a policy on Payment in Lieu of Taxes (PILOT) on December 16, 1999, and the PILOT is consistent with said policy; and

WHEREAS, in order to make the Project economically feasible for Pilgrim Village Associates IV, L.P. to operate the housing project it is necessary to obtain tax relief from the County of Erie and the City of Buffalo.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a Payment in Lieu of Taxes (PILOT) Agreement with Pilgrim Village Associates IV, L.P., the City of Buffalo, and any other organizations necessary to conclude this PILOT Agreement; and be it further

RESOLVED, that said Agreement shall include an annual PILOT in the amount of taxes due as set forth on Schedule A attached hereto; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the Director of Real Property Tax Services; the County Comptroller; the County Attorney; the Commissioner of the Department of Environment and Planning; and Paul D'Orlando, Department of Environment and Planning.

SCHEDULE A

Rehabilitation Parcel at 1100 Michigan Avenue

Year	Total	City	County
1	15,693.00	11,769.75	3,923.25
2	16,163.79	12,122.84	4,040.95
3	16,648.70	12,486.53	4,162.18
4	17,148.16	12,861.12	4,287.04
5	17,662.61	13,246.96	4,415.65
6	18,192.49	13,644.37	4,548.12
7	18,738.26	14,053.70	4,684.57
8	19,300.41	14,475.31	4,825.10
9	19,879.42	14,909.57	4,969.86
10	20,475.81	15,356.85	5,118.95
11	21,090.08	15,817.56	5,272.52
12	21,722.78	16,292.09	5,430.70

13	22,374.47	16,780.85	5,593.62
14	23,045.70	17,284.27	5,761.42
15	23,737.07	17,802.80	5,934.27

(5-0)

JOSEPH C. LORIGO
CHAIR

Item 48 – MR. LORIGO presented the following report and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 81

April 20, 2017	FINANCE & MANAGEMENT COMMITTEE REPORT NO. 5
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 5M-4 (2017)
PRESIDENT, AFSCME LOCAL 1095: “Letter to Chair Mills Regarding Fact Finder's Report”
(5-0)
 - b. COMM. 7E-11 (2017)
COMPTROLLER: “Sales Tax Update - 2016 Closeout and Jan. 2017”
(5-0)
 - c. COMM. 7E-12 (2017)
COMPTROLLER: “Report for Apportionment and Distribution of Net Collections from the 4.75% Sales and Compensating Use Tax for Dec. 2016., Jan. and Feb. 2017”
(5-0)
 - d. COMM. 7D-7 (2017)
CLERK OF THE LEGISLATURE: “Comments Received Regarding Fact Finder's Report Concerning EC, AFSCME Council 66 & AFSCME Local 1095”
(5-0)
2. COMM. 3D-6 (2017)
COUNTY EXECUTIVE AS AMENDED
WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings and / or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556; and

WHEREAS, the Director has investigated the validity of such applications (see attached listing).

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 217073 through 217080, inclusive be hereby approved or denied based upon the recommendation of the Director of Real Property Tax Services and be charged back to the applicable towns and/or cities.

FISCAL YEAR	2016	Petition No.	217,073.00
	ASSESSOR	Refund	\$360.68
S-B-L	103.16-2-40	111 Chateau Ct 143003 DEPEW	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$360.68	Town/SpecialDist/School
<u>Charge To :</u>	143003 DEPEW	\$360.68	
	Relevy Village	\$360.68	Village of DEPEW
RPTL 550(2): Failed to apply vet exemption Refund to be issued to Eric M Krakkowiak.			

FISCAL YEAR	2016	Petition No.	217,074.00
	ASSESSOR	Refund	\$639.90
S-B-L	103.16-2-40	111 Chateau Ct 143003 DEPEW	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$639.90	Town/SpecialDist/School
<u>Charge To :</u>	143003 DEPEW	\$639.90	
	Relevy School	\$639.90	143007 DEPEW UNION-

CHEEK

RPTL 550(2): Failed to apply vet exemption
Refund to be issued to Eric M Krakowiak

FISCAL YEAR	2016	Petition No.	217,075.00
	ASSESSOR	Refund	\$387.87
S-B-L	103.16-2-40	111 Chateau Ct 143003 DEPEW	
	Acct. No. 112	\$158.30	County
	Acct. No. 132	\$229.57	Town/SpecialDist/School
<u>Charge To :</u>	143003 DEPEW	\$229.57	

RPTL 550(2): Failed to apply vet exemption
Refund to be issued to Eric M. Krakowiak

FISCAL YEAR	207	Petition No.	217,076.00
	ASSESSOR	Refund	\$383.90
S-B-L	103.16-2-40	111 Chateau Ct 143003 DEPEW	
	Acct. No. 112	\$157.43	County
	Acct. No. 132	\$226.47	Town/SpecialDist/School
<u>Charge To :</u>	143003 DEPEW		\$226.47

RPTL550(2): Failed to apply vet exemption
Refund to be issued to Eric M Krakowiak

FISCAL YEAR	2016	Petition No.	217,077.00
	ASSESSOR	Refund	\$616.53
S-B-L	57.15-2-13	5421 Raintree Ct 143200 CLARENCE	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$616.53	Town/SpecialDist/School
<u>Charge To :</u>	143200 CLARENCE		\$616.53
	Relevy School	\$616.53	142203 WILLIAMSVILLE

CENT

RPTL 550(2): Failed to apply Enhanced STAR
Refund to be issued to Linda V Brown

FISCAL YEAR	2017	Petition No.	217,078.00
	ASSESSOR	Cancel	\$3,194.19
S-B-L	332.00-2-18.3	4690 Brown St 143689 COLLINS	
	Acct. No. 112	\$602.20	County
	Acct. No. 132	\$2,591.99	Town/SpecialDist/School
	36020 COLLINS FIRE PROTECT	\$118.30	
	36023 HELMOUTH FIRE DISTRICT	\$13.49	
<u>Charge To :</u>	143689 COLLINS		\$2,460.20
	Relevy School	\$2,064.42	

RPTL 550(2): Duplicate entry
New tax bill to be issued.

FISCAL YEAR	2017	Petition No.	217,079.00
ASSESSOR	Cancel		\$80.29
S-B-L	321.00-2-3.2	Concord Rd	143889 CONCORD
	Acct. No. 112		\$45.38 County
	Acct. No. 132		\$34.91 Town/SpecialDist/School
	38019 CONCORD FIRE PROTECT		\$17.40
<u>Charge To :</u>	143889 CONCORD		\$17.51

RPTL 550(2): Incorrect acreage
New tax bill to be issued.

FISCAL YEAR	2017	Petition No.	217,080.00
ASSESSOR	Cancel		\$120.64
S-B-L	142.37-5-41	42 Center St	140900 LACKAWANNA
	Acct. No. 112		\$0.00 County
	Acct. No. 132		\$120.64 Town/SpecialDist/School
	9992 ECSD#6 SAN SEWER		\$120.64
<u>Charge To :</u>	140900 LACKAWANNA		\$0.00

RPTL 550(2): Incorrect sewer charge
New tax bill to be issued.

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.
(5-0)

3. COMM. 3D-6 (2017)

COUNTY EXECUTIVE AS AMENDED

WHEREAS Level 3 Communications, (“Level 3”) has submitted an application for Refund and Credit on form RP-556 pursuant to Real Property Tax Law Section 556 relative to a 2017 Erie County tax bill (“Application”), and

WHEREAS, Level 3 commenced actions for declaratory judgment and proceedings pursuant to Article 78 of the Civil Practice Law and Rules in the Supreme Court of the State of New York (“Level 3 litigation”) seeking, among other things, a ruling that fiber optic cable is not taxable as real property and/or to compel the appropriate tax levying bodies to determine and approve related applications, and

WHEREAS, the Erie County Real Property Tax Director (Director) has investigated the validity of such Application, and

WHEREAS the Director has transmitted a written report of such investigation and his recommendations for action thereon, and

WHEREAS the Director has determined that the Application is without merit and recommends that the Application be denied for multiple reasons, and

WHEREAS the Director recommends that the Application be denied for the following specific reasons:

1. The fiber optic cable constitutes taxable real property under multiple sections of Section 102 of the Real Property Tax Law as follows:

A. Fiber optic cable has been interpreted and taxed as real property for more than thirty years and should continue to be taxed as real property;

B. The fiber optic cable meets the definition of real property pursuant to Real Property Tax Law Section 102(12)(i) and is taxable under that Section. *T-Mobile v. DeBellis and City of Mount Vernon*, 143 A.D.2d 992 (2nd Dept. 2016);

C. The fiber optic cables constitute fixtures and are taxable real property pursuant to Section 102(12)(b) of the Real Property Tax Law;

D. The fiber optic cable constitutes property for the distribution of light and is taxable real property pursuant to Real Property Tax Law 102(12)(f);

E. The Real Property Tax Law does not provide any tax exemption for fiber optic cable;

F. Real Property Tax Law Section 102 does not contain any express or implied exclusion for fiber optic cable from the definition of taxable real property;

G. The Legislative History of Real Property Tax Law Section 102 (12) supports the position that fiber optic cable constitutes taxable real property and is subject to real property taxation;

H. The legislative history of Real Property Tax Law Section 102 supports a finding that outside plant be taxed as real property.

I. The research articles submitted by Level 3 in connection its litigation have no foundation, are not authoritative, were written many years after the New York State Legislature enacted the language contained in Real Property Tax Law Section 102 and there is no evidence the New York State Legislature considered those articles when the Legislation was enacted; and

J. The RCN case, which Level 3 references in its Application, is factually and legally distinguishable from the circumstances involving Level 3's property located in Erie County. The RCN case involved property in New York City in a building, and not underground cables connected

to taxable fiber optic cable in the right of way, as is the situation in Erie County. In addition, the RCN case is in a different department and is not binding on the Courts in the Appellate Division, Fourth Judicial Department, to which the Level 3 litigation in Erie County is pending. Moreover, in a later *RCN* Decision rendered by the Appellate Division, First Department, the Court expressly confirmed that telecommunications equipment is subject to real property taxation according to generally applicable provisions of the Real Property Tax Law. *Matter of RCN Telecom Services of NY, et al v. Frankel, et al*, 100 A.D.3d 538, 541-542 (1st Dept 2012).

2. The Application is procedurally improper. The Application fails to establish a clerical error, unlawful entry or an error in essential fact as those terms are defined by Section 550 of the Real Property Tax Law. Numerous Town tax assessors have also analyzed Level 3's claims and confirmed the Director's analysis that Level 3's allegations do not constitute an "unlawful entry" as that term is defined in Real Property Tax Law Section 550(7). There was no entry of assessed valuation on an assessment roll or tax roll made by an unauthorized person or body.

3. Level 3 failed to pay the taxes under protest. The Voluntary Payment Doctrine bars Level 3 from recovery of taxes paid without protest. *Matter of Level 3 Communications, LLC v Chautauqua County*, 2017 NY Slip Op 02322 (4th Dept. March 25, 2017); *City of Rochester v. Chiarella*, 65 N.Y.2d 92, 98 (1985); *City of Rochester v. Chiarella*, 98 A.D.2d 8, 9, 12 (4th Dept., 1983) aff'd 63 N.Y.2d 857 (1984).

A) Level 3's argument that Real Property Tax Law Section 556 allows recovery without protest is without merit since Section 556 does not state or provide an affirmative right to recover taxes without protest. *Matter of Level 3 Communications, LLC v Chautauqua County*, 2017 NY Slip Op 02322 (4th Dept. March 25, 2017); *Level 3 Communications, LLC v. Essex County*, 129 A.D.3d 1255 (3rd Dept., 2015); *Community Health Plan v. Burkard*, 3 A.D.3d 724, 725 (3rd Dept., 2004).

4. The RP 556 Application is time barred and untimely on the basis that it was filed after the expiration of the tax warrants.

5. The RP 556 Application is also time-barred and untimely because it was not filed within three years from the annexation of the warrants for such taxes as required by Real Property Tax Law, Section 556(1)(a).

6. Level 3's proper remedy is to bring a *tax certiorari* proceeding under Article 7 of the Real Property Tax Law challenging the assessments prospectively. No tax grievances or Article 7 proceedings have been filed by *Level 3*. The Application improperly seeks retroactive tax refunds under inapplicable sections of the Real Property Tax Law.

7. The Application should be denied on public policy grounds because Level 3 voluntarily deferred its challenges to the public assessments for multiple years and exposed the municipalities to unnecessary retroactive disruption of their budgets. *Press v. County of Monroe*, 50 N.Y.2d 695 (1980); *Solnick v. Whalen*, 49 N.Y.2d 224 (1979).

8. The Application is untimely and barred by the four-month statute of limitations because it was filed more than four months after the assessment rolls became final and binding. *See Press v. County of Monroe*, 50 N.Y.2d 695 (1980).

WHEREAS the Director has transmitted a written report of such investigation and his recommendations for action thereon, and

WHEREAS the Director has determined that the Applications are without merit and recommends that the Applications be denied for multiple reasons, and

WHEREAS the Director recommends that the Applications be denied for the following specific reasons:

1. The fiber optic cable constitutes taxable real property under multiple sections of Section 102 of the Real Property Tax Law as follows:

A. Fiber optic cable has been interpreted and taxed as real property for more than thirty years and should continue to be taxed as real property;

B. The fiber optic cable meets the definition of real property pursuant to Real Property Tax Law Section 102(12)(i) and is taxable under that Section. *T-Mobile v. DeBellis and City of Mount Vernon*, 143 A.D.2d 992 (2nd Dept. 2016);

C. The fiber optic cables constitute fixtures and are taxable real property pursuant to Section 102(12)(b) of the Real Property Tax Law;

D. The fiber optic cable constitutes property for the distribution of light and is taxable real property pursuant to Real Property Tax Law 102(12)(f);

E. The Real Property Tax Law does not provide any tax exemption for fiber optic cable;

F. Real Property Tax Law Section 102 does not contain any express or implied exclusion for fiber optic cable from the definition of taxable real property;

G. The Legislative History of Real Property Tax Law Section 102 (12) supports the position that fiber optic cable constitutes taxable real property and is subject to real property taxation;

H. The legislative history of Real Property Tax Law Section 102 supports a finding that outside plant be taxed as real property.

I. The research articles submitted by Level 3 in connection its litigation have no foundation, are not authoritative, were written many years after the New York State Legislature enacted the language contained in Real Property Tax Law Section 102 and there is no evidence the New York State Legislature considered those articles when the Legislation was enacted; and

J. The RCN case, which Level 3 references in its Applications, is factually and legally distinguishable from the circumstances involving Level 3's property located in Erie County. The RCN case involved property in New York City in a building, and not underground cables connected to taxable fiber optic cable in the right of way, as is the situation in Erie County. In addition, the RCN case is in a different department and is not binding on the Courts in the Appellate Division, Fourth Judicial Department, to which the Level 3 litigation in Erie County is pending. Moreover, in

a later *RCN* Decision rendered by the Appellate Division, First Department, the Court expressly confirmed that telecommunications equipment is subject to real property taxation according to generally applicable provisions of the Real Property Tax Law. *Matter of RCN Telecom Services of NY, et al v. Frankel, et al*, 100 A.D.3d 538, 541-542 (1st Dept 2012).

2. The Applications are procedurally improper. The Applications fail to establish a clerical error, unlawful entry or an error in essential fact as those terms are defined by Section 550 of the Real Property Tax Law. Numerous Town tax assessors have also analyzed Level 3's claims and confirmed the Director's analysis that Level 3's allegations do not constitute an "unlawful entry" as that term is defined in Real Property Tax Law Section 550(7). There was no entry of assessed valuation on an assessment roll or tax roll made by an unauthorized person or body.

3. Level 3 failed to pay the taxes under protest. The Voluntary Payment Doctrine bars Level 3 from recovery of taxes paid without protest. *Matter of Level 3 Communications, LLC v Chautauqua County*, 2017 NY Slip Op 02322 (4th Dept. March 25, 2017); *City of Rochester v. Chiarella*, 65 N.Y.2d 92, 98 (1985); *City of Rochester v. Chiarella*, 98 A.D.2d 8, 9, 12 (4th Dept., 1983) aff'd 63 N.Y.2d 857 (1984).

A) Level 3's argument that Real Property Tax Law Section 556 allows recovery without protest is without merit since Section 556 does not state or provide an affirmative right to recover taxes without protest. *Matter of Level 3 Communications, LLC v Chautauqua County*, 2017 NY Slip Op 02322 (4th Dept. March 25, 2017); *Level 3 Communications, LLC v. Essex County*, 129 A.D.3d 1255 (3rd Dept., 2015); *Community Health Plan v. Burkard*, 3 A.D.3d 724, 725 (3rd Dept., 2004).

4. The RP 556 Applications are time barred and untimely on the basis that they were filed after the expiration of the tax warrants.

5. The RP 556 Applications are also time-barred and untimely because they were not filed within three years from the annexation of the warrants for such taxes as required by Real Property Tax Law, Section 556(1)(a).

6. Level 3's proper remedy is to bring a *tax certiorari* proceeding under Article 7 of the Real Property Tax Law challenging the assessments prospectively. No tax grievances or Article 7 proceedings have been filed by Level 3. The Applications improperly seek retroactive tax refunds under inapplicable sections of the Real Property Tax Law.

7. The Applications should be denied on public policy grounds because Level 3 voluntarily deferred its challenges to the public assessments for multiple years and exposed the municipalities to unnecessary retroactive disruption of their budgets. *Press v. County of Monroe*, 50 N.Y.2d 695 (1980); *Solnick v. Whalen*, 49 N.Y.2d 224 (1979).

8. The Applications are untimely and barred by the four-month statute of limitations because they were filed more than four months after the assessment rolls became final and binding. *See Press v. County of Monroe*, 50 N.Y.2d 695 (1980).

9. The Applications contain only conclusory and hearsay allegations with respect to fiber optic cables and fail to contain detailed and sufficient evidence with respect to the identity, location, composition and usage of Level 3's property and lines. The Applications fail to contain

any information from any engineer, expert, person or employee with personal knowledge with respect to the cable lines in question; and

WHEREAS the Erie County Legislature has carefully considered and fully agrees with the investigation and recommendations of the Director, and

NOW, THEREFORE, BE IT

RESOLVED, that all of the Level 3 Applications for Refund and Credit submitted on form RP-556 pursuant to Real Property Tax Law Section 556 are hereby denied in their entirety for the reasons set forth above and based upon the recommendation of the Director of Real Property Tax Services

FISCAL YEAR 2016 Petition No. 217,081.00

OWNER Refund\$0.00
S-B-L 555.00-75-1.1 Fiberoptics 144000 EDEN

Acct. No. 112 \$0.00 County
Acct. No. 132 \$0.00 Town/SpecialDist/School
Charge To : 144000 EDEN\$0.00

RPTL550(7): Fiber optic cables are non taxable
Application Denied

FISCAL YEAR 2016 Petition No. 217,082.00

OWNER Refund\$0.00
S-B-L 555.00-75-1.2 Fiberoptics 144489 EVANS

Acct. No. 112 \$0.00 County
Acct. No. 132 \$0.00 Town/SpecialDist/School
Charge To : 144489 EVANS \$0.00

RPTL550(7): Fiber optic cables are non taxable
Application Denied

FISCAL YEAR 2016 Petition No. 217,083.00

OWNER Refund\$0.00
S-B-L Multiple Fiberoptics 145801 NORTH COLLINS

Acct. No. 112 \$0.00 County
Acct. No. 132 \$0.00 Town/SpecialDist/School

Charge To : 145801 NORTH COLLINS \$0.00

RPTL550(7): Fiber optic cables are non taxable
Application Denied

FISCAL YEAR 2016 Petition No. 217,084.00

OWNER Refund\$0.00
S-B-L Multiple Fiberoptics 145889 NORTH COLLINS

Acct. No. 112 \$0.00 County
Acct. No. 132 \$0.00 Town/SpecialDist/School
Charge To : 145889 NORTH COLLINS \$0.00

RPTL550(7): Fiber optic cables are non taxable
Application Denied

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.
(5-0)

5. COMM. 7E-10 (2017)

COUNTY EXECUTIVE

WHEREAS, the Department of Public Works and Division of Budget and Management have been reviewing capital projects and have identified a number of projects where work has been completed and are ready to wholly or partially close; and

WHEREAS, this Honorable Body approved of the closure of dormant capital projects in the 2017 Budget, of which five received additional federal/state aid and other revenue contributions which were not budgeted.

NOW, THEREFORE, BE IT

RESOLVED, that authorization is hereby provided to accept the indicated federal/state aid and other revenue contributions in the following capital projects, adjust the project budgets accordingly, and to then close these projects as designated in the 2017 Budget Resolutions:

A.00051 – 2002 Asbestos Abatement and Environmental Remediation, Library and Other
\$50,000 in NYSERDA State Aid

A.11005 – 2011 Countywide Building and Facility Improvements
\$6,840 in Other Contributions

B.12004 – 2012 FEMA Road Reconstruction

\$14,793 in State Aid - SEMO and \$88,758.50 in Federal Aid - FEMA

B.13016 – 2013 Capital Overlay Program (Countywide)
\$4,537.64 in Federal Aid

B.20905 – 2009 East Robinson/North French – ROW only
\$153,050 in additional Marchiselli Aid

and be it further

RESOLVED, that authorization is hereby provided to the Division of Budget and Management and the Comptroller's Office to make any and all adjustments and budgetary and financial entries required to effectuate the capital project closing; and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, County Comptroller, Director of Budget and Management, County Attorney and Commissioner of Public Works.
(5-0)

JOSEPH C. LORIGO
CHAIR

Item 49 – MR. MORTON presented the following report and moved for immediate consideration and approval. MR. HARDWICK seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 82

April 20, 2017	ENERGY & ENVIRONMENT COMMITTEE REPORT NO. 6
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ALL MEMBERS PRESENT.

1. COMM. 7E-18 (2017)
COUNTY EXECUTIVE

WHEREAS, Erie County has a Household Hazardous Waste (HHW) Collection Program to provide residents with a safe, effective and cost free opportunity to dispose of household generated hazardous waste; and

WHEREAS, Erie County hosts at least two household hazardous waste events per year to properly dispose of chemicals that pose a health and safety hazard and might otherwise contaminate our water, land or air; and

WHEREAS, these events service approximately 2,000 households per year; and

WHEREAS, the Erie County Department of Environment and Planning (DEP) has identified the need for a feasibility study to identify how it might increase the number of households it serves through this program; and

WHEREAS, New York State Department of State (DOS) provides competitive funding for Local Government Efficiency Grants for local government to better consolidate and share services; and

WHEREAS, Erie County applied to DOS for a grant to support a feasibility study to examine options, including funding mechanisms, for the County to improve its HHW program; and

WHEREAS, Erie County received a DOS award for \$24,000 in funding to conduct such as feasibility study; and

WHEREAS, the DEP has allocated additional funds in an amount of \$24,000 from the Erie County Community Development Block Grant (CDBG) Fund to match DOS funds and further offset costs of this study; and

WHEREAS, the execution of a contract between Erie County and DOS, and the adoption of a grant budget is required to complete the study.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to execute the necessary agreements to accept a grant of \$24,000 with DOS for the purpose of establishing a “Household Hazardous Waste Feasibility Study”; and be it further

RESOLVED, that the grant budget and project period for the “Household Hazardous Waste Feasibility Study” is hereby created in the Department of Environment and Planning, Business Area 162, as follows:

Household Hazardous Waste Feasibility Study
SAP Grant Account #162-BSFSADP1718

REVENUE:

Account	Description	Increase
409000	State Aid	<u>\$24,000</u>
TOTAL REVENUE		\$24,000

APPROPRIATIONS:

Account	Description	
516020	Professional Services	<u>\$24,000</u>
TOTAL APPROPRIATIONS:		\$24,000

CDBG Project J.00516 (2016-17 CDBG Program)

REVENUE

Account	Description	Increase
412500	Federal Aid Community Development	<u>\$24,000</u>
TOTAL REVENUE		\$24,000

APPROPRIATIONS

516020	Professional Services	<u>\$24,000</u>
TOTAL APPROPRIATIONS:		\$24,000

and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments as required to comply with the grantor funding requirements; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Deputy County Executive; the Director of the Division of Budget and Management; the County Attorney; the County Comptroller; Thomas R. Hersey, Jr., Commissioner of Environment and Planning; Bonnie Lawrence, Deputy Commissioner of Environment and Planning; and Paul Kranz, P.E. – DEP Associate Engineer.

(5-0)

TED B. MORTON
CHAIR

Item 50 – MR. RATH presented the following report and moved for immediate consideration and approval. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 83

April 20, 2017	PUBLIC SAFETY COMMITTEE REPORT NO. 7
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ALL MEMBERS PRESENT.

1. COMM. 7E-15 (2017)
COUNTY EXECUTIVE

WHEREAS, the County of Erie, by and through the Erie County Department of Homeland Security and Emergency Services, wishes to access and use the Sturgeon Point Tower site, leased

from the Erie County Water Authority by US Customs and Border Protection, to install, operate, maintain and repair certain communication equipment, which will improve or enhance communication between first responders; and

WHEREAS, the Erie County Water Authority expresses US Customs and Border Protection permission for the Department of Homeland Security and Emergency Services, its employees and contractors to access and use the Sturgeon Point tower to install, operate, maintain and repair certain communication equipment; and

WHEREAS, authorization is required from the Erie County Legislature for the County Executive to enter into an agreement with US Customs and Border Protection for space on the Sturgeon Point tower at no cost to the County; and

WHEREAS, this contract, which will be managed by the Erie County Department of Homeland Security and Emergency Services, will remain effective for as long as US Customs and Border Protection maintains the Erie County Water Authority lease.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to enter into an agreement beginning May 1, 2017 with US Customs and Border Protection for the purposes of providing tower space for 400 MHz interoperable communications system at no cost to the County; and be it further

RESOLVED. that certified copies of this resolution be sent to the County Executive's Office, the Division of Budget and Management, the Department of Personnel, the Department of Homeland Security & Emergency Services c/o Melissa Calhoun, the County Comptroller, and the County Attorney.

(5-0)

EDWARD A. RATH III
CHAIR

LEGISLATOR RESOLUTIONS

Item 51 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 84

RE: Approval of the Eight-Year Review and Recertification and Consolidation of Agricultural Districts No. 6 (Sardinia), No. 11 (Holland) and No. 15 (Concord) (INTRO. 8-1)

A RESOLUTION TO BE SUBMITTED BY

CHAIR MILLS & LEGISLATOR MORTON

WHEREAS, the Sardinia Agricultural District No. 6 was initially created on December 19, 1974 pursuant to New York State Agriculture and Markets Law (“Agriculture and Markets Law”) Section 303; and

WHEREAS, the Holland Agricultural District No. 11 was initially created on August 9, 1977 pursuant to New York State Agriculture and Markets Law Section 303; and

WHEREAS, the Concord Agricultural District No. 15 was initially created on December 21, 1981 pursuant to New York State Agriculture and Markets Law section 303; and

WHEREAS, pursuant to Article 25AA of the New York State Agriculture and Markets Law, the Erie County Legislature is required to review Agriculture Districts every eight years; and

WHEREAS, pursuant to Agriculture and Markets Law Sections 303-a (2) the Erie County Legislature gave the required public notice, directed the Erie County Agricultural and Farmland Protection Board to prepare a report on the district and set a public hearing for March 23, 2017; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-a (2) (a) the Erie County Legislature published a public notice and hearing notice in a newspaper having a general circulation within the district; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-a (2) (b) the Erie County Agricultural and Farmland Protection Board reviewed the district, prepared a report to the Erie County Legislature and voted unanimously on March 1, 2017 to recommend that these district be continued with the proposed modifications; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-a (2) (c) on March 23, 2017 at 6:00 pm a public hearing was held at Hulbert Library, 18 Chapel Street, Springville, New York to consider recertification of the district; and

WHEREAS, the district has been reviewed in accordance with the New York State Environmental Quality Review Act of 1975 and adopted review procedures and the criteria set forth in Part 617; and

WHEREAS, it has been determined that the continuation of the district will not have a significant effect on the environment; and

WHEREAS, Erie County has established a timeline for the consolidation of the County’s fourteen Agricultural Districts into four; and

WHEREAS, this is the second consolidation, with Agricultural Districts No. 6, No. 11, and No. 15 proposed to be consolidated into the Concord Agricultural District No. 15; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed the proposed consolidation, prepared a report to the Erie County Legislature and voted unanimously on

March 1, 2017 to recommend that the aforementioned districts be consolidated into the Southeast Agricultural District (Consolidated Southeast Agricultural District No. 15); and

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature finds that Sardinia Agricultural District No. 6, Holland Agricultural District No. 11, and Concord Agricultural District No. 15 should be continued with the proposed modifications as recommended by the Erie County Agricultural and Farmland Protection Board; and be it further

RESOLVED, that the Erie County Legislature finds that Sardinia Agricultural District No. 6, Holland Agricultural District No. 11, and Concord Agricultural District No. 15 should be consolidated into the Southeast Agricultural District No. 15; and

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Commissioner of Environment and Planning, the Director of Real Property Tax Services and the Town Supervisors of Sardinia, Holland, Colden, Wales, North Collins, Boston, and Concord; and be it further

RESOLVED, that the Commissioner of Environment and Planning send a certified copy of this resolution to the Commissioner of New York State Department of Agriculture and Markets for recertification.

Item 52 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 85

RE: Appointments to the Erie County
Citizens' Budget Review Commission
(INTRO. 8-2)

A RESOLUTION TO BE
SUBMITTED BY CHAIR MILLS

WHEREAS, the Erie County Legislature unanimously approved, and the County Executive signed, a local law introduction reinstating a Citizens' Budget Review Commission for the County; and

WHEREAS, the Commission shall assist and advise the Legislature in the oversight of the County's budget, and to monitor County finances, ensure the long-term fiscal stability of Erie County, prevent the concealment of County deficits, and to help provide the Legislature with enough time and information to respond to budgetary problems, according to their Charter mandate; and

WHEREAS, according to the provisions of Local Law No.2 of 2012, specifically Section 2618 (c) [Membership; Terms; Vacancies], specific categories of appointments shall be made on an annual basis, of members of the Commission; and

WHEREAS, following a general media outreach to solicit interest among Erie County residents to serve on this important policy panel, letters of interest were received for all membership categories.

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Local Law No. 2 of 2012, the following individuals are hereby appointed by this Honorable Body to serve as members of the Erie County Citizens' Budget Review Commission, for a term that will expire on December 31, 2017:

Appointee:

Joseph Heins, Esq.
372 Sprucewood Terrace
Williamsville, NY 14221

Membership Category:

Chairman Mills' appointment

Ed Kumrow
31 Grant Rd.
Amherst, NY 14226

Majority Leader's appointment

Mark Davis, Esq.
28 Ganna Court
West Seneca, NY 14224

Licensed attorney with experience in local government law

E. Peter Forrestel
150 Stoneridge Lane
Akron, NY 14001

Representative with Banking and Finance experience

Jorge S. deRosas
77 Middlebury Rd.
Orchard Park, NY 14127

Represents a cross-section of the County's diverse population and has a depth of appropriate experience and expertise.

Joseph Hanna, Esq.
Goldberg Segalla – Partner
665 Main St. – Suite 400
Buffalo, NY 14203

Represents a cross-section of the County's diverse population and has a depth of appropriate experience and expertise.

RESOLVED, that this Legislature declares that each appointee possesses strong personal and professional credentials for adding greatly to the Commission's important work; further ensuring fiscal stability of County government, adding additional checks and balances to the oversight of County finances, and increased budget monitoring and reporting; and be it further

RESOLVED, that certified copies of this resolution be conveyed to the County Executive, Erie County Fiscal Stability Authority, Comptroller, County Attorney, Budget Director, the Erie County Citizens' Budget Review Commission appointees at the addresses listed above, and all other parties deemed necessary and proper.

Item 53 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 86

RE: Minority Leader Recommendation for
Reappointment to the Erie County
Citizen's Budget Review Commission
(INTRO. 8-3)

A RESOLUTION TO BE SUBMITTED
BY LEGISLATOR LOUGHRAN

WHEREAS, the Erie County Charter, Section 2518, empowers the Citizens' Budget Review Commission: "The Citizens' Budget Review Commission shall be established to assist and advise the Erie County Legislature in the oversight of the County's budget and to monitor County finances, ensure the long-term fiscal stability of Erie County, prevent the concealment of County deficits, and to help provide the Legislature with enough time and information to respond to budgetary problems;" and

WHEREAS, the Citizens' Budget Review Commission is composed of eleven (11) voting members, who shall be residents of Erie County. Except for the Commission member appointed by the County Executive, the Legislature shall appoint, or confirm the recommendation for appointment, of the various Commission members, according to the Charter; and

WHEREAS, among the eleven (11) voting members, one member represents the Minority Caucus on this important Erie County panel, and following the recommendation of the Minority Leader, confirmation by the full Legislature is required; and

WHEREAS, Michael Otto has served as the Minority Caucus representative and has expressed an interest in continuing to serve as a Commission member; and

WHEREAS, Mr. Otto has served with distinction and has participated in the proceedings of the Commission with enthusiasm and thoughtfulness, and it is fitting that this Honorable Body reappoint him in order to continue the work of the Commission.

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to the Erie County Charter, Section 2518, the following named individual is hereby reappointed by this Honorable Body to serve as a member of the Erie County Citizens' Budget Review Commission, for a term that will expire on December 31, 2017:

Michael J. Otto
39 Wynngate Ln.
Amherst, NY 14221

Minority Leader's recommendation

and be it further

RESOLVED, that certified copies of this resolution be conveyed to the County Executive, Erie County Fiscal Stability Authority, Comptroller, County Attorney, Budget Director, Mr. Otto at the address listed above, and all other parties deemed necessary and proper.

Item 54 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 87

RE: Transfer of Surplus Property to Hillcrest
Volunteer Fire Company
(INTRO. 8-4)

A RESOLUTION TO BE
SUBMITTED BY CHAIR MILLS

WHEREAS, members of the Hillcrest Volunteer Fire Co. have requested a transfer of property from the County's surplus warehouse; and

WHEREAS, with the help of the director of purchasing have identified surplus items that would be of tremendous use to their department; and

WHEREAS, these items no longer serve a purpose for the County of Erie and representatives of the Department of Purchase have indicated that the request is proper.

NOW, THEREFORE, BE IT

RESOLVED, that ownership of the following item is hereby transferred from the County of Erie to the Hillcrest Volunteer Fire Co.:

<u>Qty</u>	<u>Description</u>	<u>Item #</u>
2	5 Drawer File Cabinets	F00254/38556
3	Wooden Desks	F00120, F00121 and F00122
2	Tables	F00108 and F00109
3	Metal Shelves	F003038/193646 F003039/193645 F00302/193641

and, be it further

RESOLVED, that these items are to be used for a purpose related to the operations of the Hillcrest Volunteer Fire Co. and should not be transferred to any other entity without prior consent of the Erie County Legislature; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Department of Purchase, the Hillcrest Volunteer Fire Co., and any other party deemed necessary and proper.

Item 55 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 88

RE: Requesting NYS Amend Ridesharing
Start Date to July 1, 2017
(INTRO. 8-5)

A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO, MORTON AND RATH

WHEREAS, there is a long-standing and persistent need for alternative methods of public transportation for the residents of our community, which is something this body has consistently encouraged the New York State Legislature and Governor Cuomo to bring to Western New York; and

WHEREAS, ridesharing enables pre-approved drivers to operate one-way fares for a fee, and transport passengers to locations around Erie County using their personal vehicles. These services can help expand public transportation in Erie County to places that light-rail and bus lines do not go; and

WHEREAS, current options for public transportation operating in Erie County do not offer reliable transportation to all residents, as many areas of the city and suburbs are not serviced to the degree they should be; and

WHEREAS, ridesharing is not a replacement for taxis or buses, but an additional method of transportation for residents; and

WHEREAS, this honorable body further finds that ridesharing programs like Lyft and Uber not only offer a readily utilized method of transportation, these programs increase employment opportunities and provide a direct cost savings for passengers; and

WHEREAS, ridesharing will make transportation more accessible for Erie County residents and visitors to travel, whether it be to and from the airport, home after a night out, a trip to the doctor's office, or making an unexpected emergency visit; and

WHEREAS, the legislation gives municipalities and counties of a certain population the choice to opt-out of ridesharing if they choose; and

WHEREAS, the tentative start date for ridesharing services to begin operation in Western New York is set as July 8, 2017.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby thanks Governor Cuomo and the New York State Legislature for working together towards a solution that allows ridesharing companies to operate across New York State, including in Erie County; and, be it further

RESOLVED, Erie County again reiterates its support for ridesharing throughout the county; and, be it further

RESOLVED, that this honorable body hereby urges New York State's leaders to amend the authorizing statute's effective date from 90 days of passage of the state budget, to a July 1st start date to account for the July 4th holiday; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Western New York Delegation to the New York State Assembly and Senate, the Governor of the State of New York, and any other party deemed necessary and proper.

Item 56 – CHAIR MILLS directed that the following item be referred to the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

INTRO. 8-6 from LEGISLATORS RATH & MORTON. Opposition to the Imposition of Blanket Inclusionary Zoning Principals.

Item 57 – MR. LORIGO presented the following resolution and moved for consideration. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

RE: Recording EC Legislature Sessions,
Committee Meetings and Public
Hearings via Contractor to Broadcast on
the EC Website and Public Access
Channels
(INTRO. 8-7)

MR. LORIGO moved to amend the item. MS. MILLER-WILLIAMS seconded.

CARRIED UNANIMOUSLY.

Add the following text:

A RESOLUTION SUBMITTED BY
LEGISLATORS MILLER-WILLIAMS & BURKE

WHEREAS, the Erie County Legislature desires to provide greater notice and transparency in the introduction, discussion and adoption of items that come before the Legislature in accordance with New York State Open Meetings Law; and

WHEREAS, the Erie County Legislature's 2017 Rules of Order Section 5.08(6)(7)(9) shows that the Legislature is cognizant of the use electronic devices to create audio and video recordings of Legislative Sessions, Committee Meetings and Public Hearings; and

WHEREAS, the Erie County Legislature does not currently video record Legislative Sessions, Committee Meetings and Public Hearings to publish on the Erie County website or Public Access Channels in Erie County for public viewing; and

WHEREAS, publishing of the Legislative Sessions, Committee Meetings and Public Hearings to the Erie County website and Public Access Channels in Erie County will promote civic engagement and public participation, this practice will also increase access to government for Erie County Legislature constituents.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature directs the preparation and issuance of a Request for Proposal (RFP) for a Contractor to provide audio/video recording solutions for the Erie County Legislature to publish Legislative Sessions, Committee Meetings and Public Hearings on the Erie County Website and on Public Access Channels in Erie County and also to purchase and install the necessary technology and services needed to stream all public meetings live through the internet; and be it further

RESOLVED, that certified copies of this Resolution be forwarded to Hon. Marc Poloncarz, Erie County Executive, Hon. Stefan Mychajliw, Erie County Comptroller, Vallie Ferraraccio of Erie County Division of Purchasing and Michael Breeden and Lori Stilwell of Erie County Division of Information and Support Services.

CHAIR MILLS directed that the item as amended be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 58 – CHAIR MILLS directed that the following item be referred to the PUBLIC SAFETY COMMITTEE.

GRANTED.

INTRO. 8-8 from LEGISLATOR GRANT. Inappropriate and Undignified Appearance by Sheriff Tim Howard at Racially-Charged Rally in the Heart of Downtown Buffalo.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

None.

SUSPENSION OF THE RULES

Item 59 – MR. LORIGO moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 8E-28 from the COUNTY EXECUTIVE. Re: NYSERDA Clean Energy Communities Program

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 60 – MR. LORIGO moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 8E-29 from the COUNTY EXECUTIVE. Re: Department of Social Services Division of Family Independence - Summer Youth Employment Program

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 61 – MR. LORIGO moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 8E-30 from the COUNTY EXECUTIVE. Re: Letter to Deputy Commissioner-Fire Safety Regarding Report of Inventory for Turnout Gear at the Fire Training Academy

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 62 – MR. LORIGO moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 8E-31 from LEGISLATOR GRANT. Re: Letter of Absence from Legislative Session

Received, filed and printed.

April 27, 2017

Karen M. McCarthy, Clerk
Erie County Legislature
92 Franklin St., 4th Floor
Buffalo, NY 14202

Dear Ms. McCarthy:

Please accept this letter as notice that I will not be available to attend the session of the Erie County Legislature, held on April 27, 2017, due to a prior-scheduled medical procedure.

Should it become necessary to contact me, I will be reachable by cellular telephone.

Thank you.

Sincerely,
BETTY JEAN GRANT
Betty Jean Grant
Erie County Legislator – 2nd District

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM THE COUNTY EXECUTIVE

Item 63 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MR. SAVAGE seconded.

CHAIR MILLS directed that a roll call vote be taken.

AYES: MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS, MR. SAVAGE, MS. DIXON, MR. HARDWICK, MR. LORIGO, CHAIR MILLS, MR. MORTON and MR. RATH.
NOES: None. ABSENT: MS. GRANT. (AYES: 10; NOES: 0; ABSENT: 1)

CARRIED UNANIMOUSLY.

RESOLUTION NO. 89

RE: EC Sewer District No. 8 - Proposed
Aurora Mills Patio Home Development
– Approving Resolution
(COMM. 8E-1)

RESOLUTION DATED APRIL 27, 2017
RESOLUTION APPROVING THE EXTENSION OF ERIE COUNTY
SEWER DISTRICT NO. 8 AND MAKING OTHER
DETERMINATIONS IN CONNECTION THEREWITH
(Introduced) April 27, 2017.
(Adopted) April 27, 2017.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, a report of the Erie County Sewer Agency approved by the Erie County Sewer District No. 8 Board of Managers on October 4, 2016, an extension of Sewer District No. 8 of the County of Erie, New York to include the Aurora Mills Patio Home Development has been proposed; and

WHEREAS, a map and plan have been duly prepared by the County Engineers (Erie County Department of Environment and Planning) relating to such extension of the Erie County Sewer District No. 8, which map and plan have been filed with the County Legislature pursuant to Section 254 of the County Law; and

WHEREAS, there will be no additional capital costs incurred by or on behalf of the Erie County Sewer District No. 8 with respect to the extension of the boundaries of such District, but future annual charges will be assessed against a benefited area which consists of the entire area of the District in accordance with the respective proportionate shares of equalized assessed value for each parcel in the District and in accordance with applicable flat charges and charges based on units, assessed value and footage, specified in the District's Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time; and

WHEREAS, pursuant to Section 258 of the County Law, the consent of the State Comptroller is not required prior to the extension of said Erie County Sewer District No. 8 because such extension is not to be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the County; and

WHEREAS, said County Legislature duly adopted Resolution No. 33-2017 on the 23rd day of February, 2017, calling a meeting of the County Legislature for the purpose of holding a public hearing on the aforesaid extension of Erie County Sewer District No. 8 in accordance with the aforesaid map and plan, and

WHEREAS, the Erie County Sewer District No. 8 Board of Managers and the County Legislature have given due consideration to the impact that the extension of Erie County Sewer District No. 8 may have on the environment and on the basis of such consideration, have found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Erie County Sewer District No. 8 Board of Managers and the County Legislature have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith; and

WHEREAS, said public hearing was duly held at Erie County Hall, 92 Franklin Street, 4th Floor, Buffalo, New York, in said County, on the 16th day of March, 2017, at 6:00 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature has duly considered the evidence given at such public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the public hearing held on March 16, 2017, and after due consideration of the map and plan, and other recommendations and other data, if any, heretofore provided to the County Legislature, it is hereby found and determined that:

- (a) the proposed extension is satisfactory, sufficient, adequate and appropriate;
- (b) all the property and property owners within the proposed extension are benefited thereby;

- (c) all the property and property owners benefited are included within the limits of the proposed extension;
- (d) it is in the public interest to extend said Erie County Sewer District No. 8.

Section 2. The extension of Erie County Sewer District No. 8 is hereby approved and said extension shall comprise an area described as follows:

“ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Aurora, County of Erie and State of New York, being part of Lot 30, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows;

BEGINNING at a point in the center line of Mill Road, distant 526 feet south of the center line of Beech Road, said point of beginning being the southeast corner of lands conveyed to 427 Mill Street Incorporated by deed recorded in the Erie County Clerk's Office in Liber 10893 of deeds at page 2013; thence S.07°41'50”W. along the center line of Mill Road a distance of 427.17 feet; thence S.64°33'44”W. along a line a distance of 1598.95 feet; thence S.89°16'02”W. along a line a distance of 700.00 feet to a point in the west line of Lot 30, said point being 1075.00 feet north of its intersection with the south line of lands conveyed to Caroline Clement as recorded in the Erie County Clerk's Office in Liber 814 of deeds at page 209; thence N.00°43'58”E. along the west line of Lot 30 a distance of 1035 feet more or less to the center line of Cazenovia Creek; thence northeasterly, northerly and easterly along the center line of said creek a distance of 1165 feet more or less to the north line of Lot 30, being a corner of lands conveyed to 427 Mill Street Incorporated by deed recorded in the Erie County Clerk's Office in Liber 10893 of deeds at page 2013; thence southerly, southeasterly and easterly along the said lands conveyed to 427 Mill Street Incorporated the following courses and distances: 1) S.12°18'10”E. a distance of 117.89 feet; 2) S.77°18'10”E. a distance of 355.00 feet; 3) S.52°18'10”E. a distance of 160.00 feet; 4) S.07°41'50”W. a distance of 260.00 feet; 5) S.87°21'40”E. a distance of 840.00 feet to the Point or Place of Beginning.”

Section 3. There will be no additional capital costs incurred by or on behalf of the Erie County Sewer District No. 8 with respect to the extension of the boundaries of such District, but future annual charges will be assessed against a benefited area which consists of the entire area of the District in accordance with the respective proportionate shares of equalized assessed value for each parcel in the District and in accordance with applicable flat charges and charges based on units, assessed value and footage, specified in the District's Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time.

Section 4. This resolution is subject to permissive referendum and the Clerk of the Legislature is hereby authorized and directed to publish in full, within ten days after the adoption hereof, a Notice containing a true copy of this resolution, the resolution number, the date of adoption and a statement that such resolution is subject to permissive referendum.

FROM THE COUNTY EXECUTIVE

Item 64 – (COMM. 8E-2) Veto of LL Intro. 3-2 (2017)

Received, filed and printed.

April 10, 2017

Karen M. McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

RE: Veto of Local Law Intro. No. 3-2-2017

Dear Ms. McCarthy:

A certified copy of Local Law Intro. No. 3-2-2017, entitled "*A LOCAL LAW amending Local Law No. 1-1959, constituting the Erie County Charter, as amended, in relation to adjustment of job qualifications for the Erie County Commissioner of Public Works,*" was presented to me for approval on March 24, 2017. A public hearing regarding this Local Law was duly held on April 10, 2017. Pursuant to Erie County Charter Section 205, I hereby disapprove and VETO Local Law Intro. No. 3-2-2017 ("Intro 3-2").

Intro 3-2 grants to the Erie County Executive a "one-time exemption to pursue candidates that do not meet the professional engineer requirement" currently mandated for the Erie County Commissioner of the Department of Public Works. The granting of such exemption is conditioned upon the pre-appointment approval by the Erie County Legislature ("ECL") by a two-thirds vote. Such pre-appointment approval diminishes the authority of the County Executive since he/she is unable to make a discretionary appointment otherwise authorized by the Erie County Charter until he/she receives permission to do so from the ECL. This diminishment of authority necessarily triggers a mandatory referendum in order for Intro 3-2 to become operative. If passed in its current form and without the approval of the general electorate, Intro 3-2 would be invalid on its face.

Furthermore, even if Intro 3-2 was put to referendum as properly necessitated by its terms, waiting to appoint a commissioner until after a referendum vote would mean the department would not have a permanent commissioner until winter or even later. Given the nature of the work done in the Department of Public Works and the strains of an already limited staff, delaying the appointment would only cause an additional burden on current staff members, leading to lower morale and a delay in the implementation of needed leadership changes within the department. That being said, I am confident that we can all agree that the department deserves and needs a permanent commissioner as soon as possible given the approaching construction season.

On March 23, 2017 a new version of this Local Law was reviewed and submitted to your Honorable Body by Minority Leader Thomas A. Loughran. If this version of the Local Law is passed as submitted (without amendment) I stand ready to sign such version into law. Therefore, it is my hope and expectation the Legislature will move swiftly on soliciting public input voting for passage of this most recent version.

Sincerely yours,
MARK C. POLONCARZ
Mark C. Poloncarz, Esq.
Erie County Executive

A Public Hearing was held on the foregoing Local Law Intro. No.3-2 2017 on April 10, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this _ day of _ , 2017.

A Public Hearing was held on the foregoing Local Law Intro. No. 3-2 2017 on April 10, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this 10 day of April, 2017.

MARK C. POLONCARZ
Mark C. Poloncarz

FROM THE COMPTROLLER

Item 65 – (COMM. 8E-3) Audited Financial Statements and Management Letter for ECC for Fiscal Year Ended Aug. 31, 2016

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 66 – (COMM. 8E-4) Federal-Aid Highway Local Project Supplemental Agreement with NYSDOT - Contract for Engineering Design Services for Safety Improvements - Genesee Rd, Route 240 and Sibley Rd Intersection - Town of Concord - PIN 5760.99

Item 67 – (COMM. 8E-5) Federal-Aid Highway Local Project Agreement with NYSDOT - Pontiac Rd Bridge over Big Sister Creek Replacement - BIN 3327820 - Town of Evans - PIN 5761.77

Item 68 – (COMM. 8E-6) Federal-Aid Highway Local Project Agreement with NYSDOT - Cedar St Bridge Over Ledge Creek Replacement - BIN 3326580 - Town of Newstead - PIN 5761.78

Item 69 – (COMM. 8E-7) Federal-Aid Highway Local Project Supplemental Agreement with NYSDOT - Contract for Engineering Design Services for Safety Improvements - Colvin Blvd and Brighton Rd Intersection - Town of Tonawanda - PIN 5760.97

Item 70 – (COMM. 8E-8) Federal-Aid Highway Local Project - Award Construction Contract, Contract for Design, Engineering, Services During Construction & Construction Inspection - Elmwood Ave Pedestrian & Bicycle Improvements - Village of Kenmore - PIN 5761.03

Item 71 – (COMM. 8E-9) Bridge NY Local Project Agreement with NYSDOT - Trevett Rd Bridge Over Eighteen Mile Creek Replacement - Town of Boston - PIN 5762.15

Item 72 – (COMM. 8E-10) Bridge NY Project Agreement with NYSDOT - Quaker St Bridge Over Clear Creek Replacement - Town of Collins - PIN 5762.14

Item 73 – (COMM. 8E-11) Bridge NY Project Agreement with NYSDOT - Amsdell Rd Culvert Replacement Over Drainage Structure - Town of Hamburg - PIN 5762.23

Item 74 – (COMM. 8E-12) Bridge NY Project Agreement with NYSDOT - Warner Hill Rd Over Tributary Cazenovia Creek Culvert Replacement - Town of Wales - PIN 5762.22

Item 75 – (COMM. 8E-13) 134 W Eagle St - Board of Elections - 2016 Fire Damage Repair and 3rd Floor Renovations

The above ten items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 76 – (COMM. 8E-14) State Assistance Application and Contract Execution - Household Hazardous Waste Collection Program

Item 77 – (COMM. 8E-15) EC Sewer District No. 6 - Flow Monitoring and Infiltration/Inflow (I/I) Quantification Project - Engineering Agreement

Item 78 – (COMM. 8E-16) EC Sewer District No. 3 - Engineer Term Agreement - Work Order AECOM-2

Item 79 – (COMM. 8E-17) Department of Parks - Proposed Agreement with India Association of Buffalo for Maintenance Aspects of a Cricket Field at Ellicott Creek Park

The above four items were received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 80 – (COMM. 8E-18) Home Rule Request - Extension of Additional 1% and .75% Sales tax

Item 81 – (COMM. 8E-19) 2017-2020 Revised Erie County Four Year Financial Plan

The above two items were received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM CHAIR MILLS

Item 82 – (COMM. 8E-20) Letter to County Executive Regarding Proposed Local Laws Concerning Adjustment of Job Qualifications for the Commissioner of the Department of Public Works

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 83 – (COMM. 8E-21) Department of Health Division of the Medical Examiner - Acceptance of Grant Award - NY-NJ High Intensity Drug Trafficking Area Toxicology Funding

Item 84 – (COMM. 8E-22) Department of Health Division of the Medical Examiner - NYS Violent Death Registry Project

Item 85 – (COMM. 8E-23) Department of Senior Services - Authorization to Contract with the Town of Elma for the Creation of a Congregate Dining Site

Item 86 – (COMM. 8E-24) Department of Senior Services - Technical Change to Comm. 20E-15 (2016): Age Friendly Inclusive Planning Grant Establishment

The above four items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 87 – (COMM. 8E-25) Department of Homeland Security & Emergency Services - Swift Water Training - Evans Emergency Equipment Inc Service Contract

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM LEGISLATORS LOUGHRAN, GRANT, SAVAGE & BURKE

Item 88 – (COMM. 8E-26) Letter to Chair Mills Regarding Sheriff Appearing at Political Events in Uniform

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM CHAIR MILLS

Item 89 – MR. LORIGO presented the following resolution and moved for immediate consideration and approval. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 90

RE: Appointment to the EC Fisheries
Advisory Board
(COMM. 8E-27)

RESOLVED, the Erie County Legislature hereby confirms the appointment, on the recommendation of the Chair of the Legislature, of Scott Callen (141 Klas Avenue, West Seneca, NY 14224) to serve on the Erie County Fisheries Advisory Board for a term that will expire December 31, 2020.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE CLERK OF THE LEGISLATURE

Item 90 – (COMM. 8D-1) Notice Regarding County Executive's Veto of LL Intro. 3-2 (2017)

Item 91 – (COMM. 8D-2) NYS DEC Documents Received

The above two items were received and filed.

FROM THE DEPARTMENT OF ENVIRONMENT & PLANNING

Item 92 – (COMM. 8D-3) EC Agricultural Districts - Eight-Year Review and District Consolidation Report - Districts No. 6 (Sardinia), No. 11 (Holland) and No. 15 (Concord)

Received and filed.

FROM THE DEPARTMENT OF PUBLIC WORKS

Item 93 – (COMM. 8D-4) ECC STEM Building Status Report - Mar. 2017

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE DEPARTMENT OF LAW

Item 94 – (COMM. 8D-5) Transmittal of New Claims Against Erie County

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE BOARD OF HEALTH

Item 95 – (COMM. 8M-1) May 9, 2017 Meeting Agenda

Received and filed.

FROM THE BUFFALO & EC PUBLIC LIBRARY

Item 96 – (COMM. 8M-2) Apr. 20, 2017 Board of Trustees Agenda

Received and filed.

FROM THE NFTA

Item 97 – (COMM. 8M-3) Cash Flow Statements - Actual Cash Flow for Period 4/1/16-3/31/17 and Projected Cash Flow for Period 4/1/17-3/31/18Agenda

Received and filed.

FROM THE MENTHOLATUM COMPANY

Item 98 – (COMM. 8M-4) Letter in Opposition to LL Intro. 1-1 (2017)

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE EC TOWN CLERKS AND TAX COLLECTORS ASSOCIATION

Item 99 – (COMM. 8M-5) Resolution Regarding Request for Amendment to EC Tax Act of 1942 to Give Relief from the Excessive Penalty Schedule to the Taxpayers in the Towns of the Second Class, and Make the Same Penalty Schedule and Due Dates for All Town and County Taxes

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM JODI WEINERT

Item 100 – (COMM. 8M-6) Letter to Legislator Hardwick Regarding Opioid Epidemic

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

ANNOUNCEMENTS

Item 101 – CHAIR MILLS announced the committee schedule for May 4, 2017 has been distributed.

Item 102 – CHAIR MILLS announced the next regularly scheduled legislative session is May 11, 2017.

Item 103 – LEGISLATOR MILLER-WILLIAMS recognized Haley Glasgow who had been working as an intern in the district office.

MEMORIAL RESOLUTIONS

Item 104 – Legislator Dixon requested that when the Legislature adjourns, it do so in memory of Hon. John T. Curtin.

Item 105 – Legislator Hardwick requested that when the Legislature adjourns, it do so in memory of Constantine “Costa Gus” Cosmas and Thomas J. Diehl Sr.

Item 106 – Legislator Lorigo requested that when the Legislature adjourns, it do so in memory of Alice Gow.

Item 107 – Legislator Loughran requested that when the Legislature adjourns, it do so in memory of Brian J. Kuzon.

Item 108 – Legislator Miller-Williams requested that when the Legislature adjourns, it do so in memory of Louisiana Hilliard.

Item 109 – Legislator Morton requested that when the Legislature adjourns, it do so in memory of Nelson C. Cronin, Eric Miller, Domenic Montanino and Geraldine V. Niemczal.

Item 110 – Legislator Rath requested that when the Legislature adjourns, it do so in memory of Richard A. Boccio and David Alan Luce.

Item 111 – Legislator Savage requested that when the Legislature adjourns, it do so in memory of Sharon “Shari” Czajkowski and David E. Hoock.

ADJOURNMENT

Item 112 - At this time, there being no further business to transact, CHAIR MILLS announced that the Chair would entertain a Motion to Adjourn.

MR. LORIGO moved that the Legislature adjourn until Thursday, May 11, 2017 at 2:00 p.m. Eastern Standard Time. MR. RATH seconded.

CARRIED UNANIMOUSLY.

CHAIR MILLS declared the Legislature adjourned until Thursday, May 11, 2017 at 2:00 p.m. Eastern Standard Time.

KAREN M. McCARTHY
CLERK OF THE LEGISLATURE